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212-701-3008

November 9, 2020

Re: *United States v. Michelle Morton*, S3 16 Cr. 371 (RA)

Dear Judge Abrams:

We write to provide the Court with medical records relevant to Michelle Morton's hospitalization at Robert Wood Johnson Medical Center in November and December 2018 (the "Hospital Records"), attached hereto as Exhibit 1, and in brief reply to the government's Sentencing Memorandum (Dkt. No. 939).

As set forth in Michelle's November 3, 2020 Supplemental Sentencing Memorandum, on November 30, 2018, [REDACTED] Dkt. No. 938, at 6. The records from Michelle's hospital stay are attached hereto, and we respectfully request that the Court consider them in connection with Michelle's sentencing.

The Hospital Records provide additional support for the fact that Michelle is at risk of developing serious medical complications should she contract COVID-19. [REDACTED]

[REDACTED]

¹ [REDACTED]

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[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]² [REDACTED]
 [REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED] As discussed fully in Michelle's November 3, 2020 Supplemental Sentencing Memorandum, these conditions place Michelle at a high risk of developing dire complications should she contract COVID-19 while incarcerated. Accordingly, we respectfully reiterate our request for a non-custodial sentence.

The government acknowledges the seriousness of Michelle's health issues in its sentencing submission, but argues that Michelle's sentence should simply be delayed until "the Spring or until such time as the COVID-19 pandemic is better controlled." Government Sentencing Memo at 3. Such a delay is incalculable and would be infeasible, as it is entirely unclear when the COVID-19 pandemic will abate, or when prison conditions might improve.³ Even if a vaccine is approved and disseminated sometime next year, it could be much longer before prison populations are prioritized to receive it. Prison was an extraordinarily dangerous prospect for Michelle even before COVID-19, and that danger is now significantly magnified. There is no time in the foreseeable future when imprisonment would be anything less than a potential death sentence for Michelle.

Finally, the government's citation of selected compassionate release cases in support of its request for a Guidelines sentence fails to acknowledge that that the "extraordinary and compelling reasons" standard for release in those cases, *see* 18 U.S.C. § 3582(c)(1)(A)(i), is far stricter than that the Court will apply at Michelle's sentencing, where the Court need only impose a sentence that is "sufficient but not greater than necessary" to vindicate the factors articulated in Section 3553(a).

² [REDACTED]
 [REDACTED]

³ Although FCI Danbury has no cases as of today's date, on October 30, 2020, the BOP website reflected that that facility had four cases, and those statistics will obviously continue to change on a daily basis. As of today's date, 2,092 inmates and 899 BOP staff members have tested positive for COVID-19, with 16,610 inmates and 1,496 staff having recovered. There have been 134 federal inmate deaths and 2 BOP staff member deaths attributed to COVID-19. *See COVID-19 Coronavirus*, FED. BUREAU OF PRISONS, available at <https://www.bop.gov/coronavirus/> (interactive map, last visited November 9, 2020).

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For these reasons, as well as those articulated previously, we respectfully request that the Court impose a non-custodial sentence in this matter.

Respectfully Submitted,

/s/ Nola B. Heller

Nola B. Heller

Hon. Ronnie Abrams
Thurgood Marshall United States Courthouse
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BY E-MAIL

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